



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

## NOTICE OF ALLOWANCE AND FEE(S) DUE

26486 7590 02/22/2011  
BURNS & LEVINSON, LLP  
125 SUMMER STREET  
BOSTON, MA 02110

EXAMINER

SHRESTHA, BIJENDRA K

ART UNIT

PAPER NUMBER

3691

DATE MAILED: 02/22/2011

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/697,851

10/30/2003

Thomas Peterffy

30894-101

9758

TITLE OF INVENTION: PRICE IMPROVEMENT PROCESSOR FOR ELECTRONIC TRADING OF FINANCIAL INSTRUMENTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$300	\$0	\$1055	05/23/2011

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

### HOW TO REPLY TO THIS NOTICE:

#### I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or Fax (571)-273-2885**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

26486 7590 02/22/2011  
BURNS & LEVINSON, LLP  
125 SUMMER STREET  
BOSTON, MA 02110

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/697,851	10/30/2003	Thomas Peterffy	30894-101	9758
------------	------------	-----------------	-----------	------

TITLE OF INVENTION: PRICE IMPROVEMENT PROCESSOR FOR ELECTRONIC TRADING OF FINANCIAL INSTRUMENTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
-------------	--------------	---------------	---------------------	----------------------	------------------	----------

nonprovisional	YES	\$755	\$300	\$0	\$1055	05/23/2011
----------------	-----	-------	-------	-----	--------	------------

EXAMINER	ART UNIT	CLASS-SUBCLASS
----------	----------	----------------

SHRESTHA, BIJENDRA K	3691	705-038000
----------------------	------	------------

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_
- 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_ Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,851	10/30/2003	Thomas Peterffy	30894-101	9758

  

26486	7590	02/22/2011
BURNS & LEVINSON, LLP		
125 SUMMER STREET		
BOSTON, MA 02110		

  

EXAMINER	
SHRESTHA, BIJENDRA K	

  

ART UNIT	PAPER NUMBER
3691	

  

DATE MAILED: 02/22/2011

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 581 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 581 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

## Privacy Act Statement

**The Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/697,851	PETERFFY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	BIJENDRA K. SHRESTHA	3691	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/29/2010.
2. ☒ The allowed claim(s) is/are 1-20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| <p>1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date ____</p> <p>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</p> | <p>5. <input type="checkbox"/> Notice of Informal Patent Application</p> <p>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date ____.</p> <p>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</p> <p>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</p> <p>9. <input type="checkbox"/> Other ____.</p> |
|--|--|

/Bijendra K. Shrestha/  
Examiner, Art Unit 3691

**EXAMINER STATEMENT**

1. This action is responsive to the amendment filed on 11/29/2010. Of the original claims 1-20, applicant amended claims 1, 7, 10, 11, 17 and 20. Therefore, claims 1-20 are under consideration for prosecution of this application.

**EXAMINER'S AMENDMENT**

2. Examiner amendments include amendment of claims 1, 7, 10, 17 and 20. The examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Stephen Y. Chow (registration # 31,338) on February 8, 2011. The application has been amended as follows:

1. ***(Currently amended.)*** A processor for conducting a secondary auction in electronic trading of financial instruments comprising:

*(a) a receiver for information messages from market participants in a primary auction that bid for purchase or offer for sale of a financial instrument, said receiver time-stamping received information messages;*

*(b) an electronic order book;*

*(c) an updater communicating with said receiver and said electronic order book for qualifying and parsing price, size and time-stamp bid or offer data from information messages received on said receiver and entering said parsed data on said electronic order book with priority tracked by instrument in price and time-stamp of a received and qualified message;*

*(d) a transmitter communicating with said electronic order book for display to market participants during said secondary auction data on price and quantity bid, but anonymous as to the identity of the bidder, entered on said electronic order book;*

*(e) a price improvement period timer defining the pendency of the secondary auction, communicating with said updater (i) initiated upon receipt by said receiver of an information message from a qualified market participant containing a bid or offer at or better than a threshold\_price improvement, said threshold preset at the processor, not by the market participant, for said secondary auction, over the best bid or offer prevailing across multiple markets for a particular instrument and (ii) terminated upon an elapsing of a price improvement period time, preset at the processor, not by the market participant, establishing the duration of said secondary auction, of less than a minute and commensurate with market risk, during which market participants ~~may~~ make new bids or offers; and*

*(f) a transaction executor communicating with said price improvement period timer and said electronic order book for allocating and executing upon said termination matches of bids or offers for said particular instrument, data for which are entered on said electronic order book, against market offers or bids in said order, subject to a*

Art Unit: 3691

*partial time priority for said qualified market participant, and updating said electronic order book accordingly.*

*2. (Original) The processor of Claim 1 wherein said best bid or offer prevailing across multiple markets is the best bid or offer on a national market.*

*3. (Original) The processor of Claim 2 wherein said preset price improvement and increments in subsequent bids or offers during said price improvement are finer increments than those reported for best bids and offers on said national market.*

*4. (Original) The processor of Claim 2 wherein said preset price improvement period is three seconds.*

*5. (Original) The processor of Claim 2 wherein said qualified market participant is a non-market-maker broker-dealer and said qualified market participant receives time priority for forty percent by size of any remaining allocation at said qualified market participant's best price.*

*6. (Original) The processor of Claim 5 wherein a market maker bidding or offering at the national best bid or offer at the commencement of said price improvement period receives time priority for one-third by size of any remaining allocation at said qualified*



Art Unit: 3691

*market participant's best price after said qualified market participant's allocation at that or better price.*

7. **(Currently amended.)** *A processor for conducting a secondary auction in automatic trading of equity option contracts comprising:*

*(a) a receiver for information messages from market participants in a primary auction that order bids for purchase or offers for sale of an equity option contract, said receiver time-stamping received information messages;*

*(b) an electronic order book;*

*(c) an updater communicating with said receiver and said electronic order book for qualifying and parsing price, size and time-stamp bid or offer data from information messages received on said receiver and entering said parsed data on said electronic order book with priority tracked by equity option contract in price and time-stamp of a received and qualified message;*

*(d) a transmitter communicating with said electronic order book for display to market participants during said secondary auction data on price and quantity bid, but anonymous as to the identity of the bidder, entered on said electronic order book;*

*(e) a price improvement period timer defining the pendency of the secondary auction, communicating with said updater (i) initiated upon receipt by said receiver of an information message from a qualified market participant containing a bid or offer at or better than a threshold price improvement, said threshold preset at the processor, not by the market participant, for said secondary auction, over the national best bid or offer*

Art Unit: 3691

*for a particular equity option contract and (ii) terminated upon an elapsing of a price improvement period time, preset at the processor, not by the market participant, establishing the duration of said secondary auction, of greater than zero and less than ten seconds, during which market participants ~~may~~ make new bids or offers; and*

*(f) a transaction executor communicating with said price improvement period timer and said electronic order book for allocating and executing upon said termination matches of bids and offers for said particular equity option contract, data for which are entered on said electronic order book, against market offers or bids in said order, subject to a partial time priority for said qualified market participant, and updating said electronic order book accordingly.*

*8. (Original) The processor of Claim 7 wherein said qualified market participant is an order flow provider and said order flow provider receives time priority for forty percent by size of any remaining allocation at said order flow provider's best price.*

*9. (Original) The processor of Claim 8 wherein a market maker bidding or offering at the national best bid or offer at the commencement of said price improvement period receives time priority for one-third by size of any remaining allocation at said order flow provider's best price after said order flow provider's allocation at that or better price.*

*10. (Currently amended) A computer program product for conducting a fast price improvement secondary auction of financial instruments traded across national markets*

*in a primary auction, said computer program product residing on a computer-readable medium comprising instructions for causing a computer to: receive an order from a primary auction participant and time-stamping said receipt, specifying initiate a price improvement period timer defining the pendency ~~the commencement of a secondary~~ price-improvement auction ~~with~~ if the received order is at a better price, by greater than a threshold, preset for all said auctions and not by individual market participants, than the prevailing price across national markets, ~~commence and conduct an~~ said secondary auction until said timer is terminated after ~~with~~ a time duration, preset for all said secondary auctions and not by individual market participants, of greater than zero and less than ten seconds where bids or offers are matched with contra market orders or bids, displayed anonymously, as to identity of the bidders, to auction participants during the price-improvement auction period during which market participants ~~may~~ make new bids or offers, according to an allocation at the best price first and within each price level by time of receipt, with a share of any allocation at the best price level received from a market participant commencing said price-improvement auction reserved to said market participant.*

11. **(Currently amended.)** A process for conducting a secondary auction in electronic trading of financial instruments comprising the steps of:

(a) receiving at an electronic trading host an information message in a primary auction that bids for purchase of or offers for sale a financial instrument;

*(b) entering on an electronic order book data parsed from said information message where said information message bids for purchase of or offers for sale a financial instrument at price at or better than a threshold price improvement, said threshold\_preset, not by the market participant, for said secondary auction, over the best national bid or offer, wherein price and quantity information, but not identity of the bidder, are visible to market participants who ~~may~~ make new bids or offers during said secondary auction;*

*(c) initiating a price improvement period timer, defining the pendency of the secondary auction, upon receipt of the first said bid or offer at or better than said preset price improvement;*

*(d) receiving and entering information messages\_according to steps (a) and (b) until the elapsing on said timer of a price improvement period time, preset, not by the market participant, establishing the duration of said secondary auction;*

*(e) allocating and executing, using said electronic trading host, upon the said elapsing on said timer of said preset price improvement period time, matches of bids or offers for a particular equity option contract, data for which are entered on said electronic order book, in order of best bids or offers and earliest time of receipt at each price level, against market offers or bids, subject to a partial time priority for a qualified market participant from whom was received said information message initiating said price improvement period timer.*

Art Unit: 3691

12. (Original) *The process of Claim 11 wherein said best bid or offer prevailing across multiple markets is the best bid or offer on a national market.*

13. (Original) *The process of Claim 12 wherein said preset price improvement and increments in subsequent bids or offers during steps (a) and (b) are finer increments than those reported for best bids and offers on said national market.*

14. (Original) *The process of Claim 13 wherein said preset price improvement period is three seconds.*

15. (Original) *The process of Claim 12 wherein said qualified market participant is a non-market-maker broker-dealer and said qualified market participant receives time priority for forty percent by size of any remaining allocation at said qualified market participant's best price*

16. (Original) *The process of Claim 15 wherein a market maker bidding or offering at the national best bid or offer at the commencement of said price improvement period receives time priority for one-third by size of any remaining allocation at said qualified market participant's best price after said qualified market participant's allocation at that or better price.*

17. (**Currently amended**) A process for conducting a secondary auction in automatic trading of equity option contracts comprising:

(a) receiving at an electronic trading host an information message in a primary auction that bids for purchase of or offers for sale an equity option contract;

(b) entering on an electronic order book data parsed from said information message where said information message bids for purchase of or offers for sale an equity option contract at price at or better than a threshold price improvement, said threshold preset, not by the market participant, for said secondary auction, over a bid or offer prevailing on a national market, wherein price and quantity information, but not identity of the bidder, are visible to market participants who ~~may~~ make new bids or offers during said secondary auction;

(c) initiating a price improvement period timer, defining the pendency of the secondary auction, upon receipt of the first said bid or offer at or better than said preset price improvement;

(d) receiving and entering information messages according to steps (a) and (b) until the elapsing on said timer of a price improvement period time, preset, not by the market participant, establishing the duration of said secondary auction, of greater than zero and less than ten seconds;

(e) allocating and executing, using said electronic trading host, upon the said elapsing on said timer of said preset price improvement period time, matches of bids or offers for a particular equity option contract data for which are entered on said electronic order book, in order of best bids or offers and earliest time of receipt at each price level,

Art Unit: 3691

*against market offers or bids, subject to a partial time priority for a qualified market participant from whom was received said information message initiating said price improvement period timer.*

*18. (Original) The process of Claim 17 wherein said qualified market participant is an order flow provider and said order flow provider receives time priority for forty percent by size of any remaining allocation at said order flow provider's best price.*

*19. (Original) The process of Claim 18 wherein a market maker bidding or offering at the national best bid or offer at the commencement of said price improvement period receives time priority for one-third by size of any remaining allocation at said order flow provider's best price after said order flow provider's allocation at that or better price.*

*20. (**Currently amended.**) A method for conducting a fast price improvement secondary auction of financial instruments traded across national markets in a primary auction, said method comprising the steps of: receiving and time-stamping, at an electronic trading host on a computer network an order from a ~~qualified~~ market participant in the primary auction, specifying the commencement initiating a price improvement period timer defining the pendency of a price-improvement secondary auction ~~with~~ if the received offer is at a better price, by greater than a threshold, preset for all said auctions and not by individual market participants, than the prevailing price across national markets as received by said trading host over said network;*

Art Unit: 3691

~~commencing conducting~~ in said trading host ~~an~~ said secondary auction until said timer is terminated after ~~with~~ a time duration, preset for all said secondary auctions and not by individual market participants, of greater than zero and less than ten seconds, in which improved bids or offers are received, displayed anonymously, as to identity of the bidders, to auction participants over said network during the price-improvement auction period during which market participants ~~may~~ make new bids or offers; and at the termination of said secondary auction, matching contra market orders or bids, within said trading host according to an allocation at the best price first and within each price level by time of receipt, with a share of any allocation remaining at the best price level of said market participant ~~commencing~~ said price-improvement auction reserved to said market participant.

### **Reasons for Allowance**

3. With regards to claim 1, the prior art of records, alone or combined, does neither anticipate nor render obvious, inter alia, as a whole, the uniquely patentable feature of :” a price improvement period timer defining the pendency of the secondary auction, communicating with said updater (i) initiated upon receipt by said receiver of an information message from a qualified market participant containing a bid or offer at or better than a threshold price improvement, said threshold preset at the processor, not by the market participant, for said secondary auction, over the best bid or offer prevailing across multiple markets for a particular instrument and (ii) terminated upon an elapsing of a price improvement period time, preset at the processor, not by the market



Art Unit: 3691

participant, establishing the duration of said secondary auction, of less than a minute and commensurate with market risk, during which market participants make new bids or offers” a processor for conducting a secondary auction in electronic trading of financial instruments.

The reasons for allowance for all the other independent claims and dependent claims are the same as set forth for claim 1 above because they all include same/similar limitation indicated above for the reasons for allowance.

### ***Discussion of Cited Prior Art***

4. The applicants' arguments/remarks filed in response dated 11/29/2010, see pages 10-16 are persuasive and compelling that the cited prior art of Madoff et al. (U.S. Patent No. 7,162,448), Hauser et al. (U.S. Patent No. 6,061,789), Lutnick et al. (U.S. Patent No. 6,850,907) and Keith ( U.S. Patent No. 7,315,840) alone or combined, does neither disclose or renders obvious the unique features as listed above.

Applicants' arguments filed on 10/08/2010 have been fully considered and claims 1-20 are deemed to be allowable over the prior art of record, and applicants' request for allowance is respectfully granted

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

### ***Conclusion***

Art Unit: 3691

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bijendra K. Shrestha whose telephone number is (571) 270-1374. The examiner can normally be reached on 8:00 AM-4:30 PM (Monday-Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bijendra K. Shrestha/  
Examiner, Art Unit 3691  
02/11/2011